

(l) *Common horsepower.* Common horsepower is defined as any size motor that can be reasonably accommodated on the body of water slated for development.

[47 FR 22539, May 25, 1982, as amended at 50 FR 21448, May 24, 1985]

§ 80.2 Eligibility.

Participation in the benefits of the Acts is limited to State fish and wildlife agencies as specified below:

(a) Federal Aid in Sport Fish Restoration—Each of the 50 States, the Commonwealth of Puerto Rico, the District of Columbia, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, and American Samoa.

(b) Federal Aid in Wildlife Restoration—Each of the 50 States, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, and the Virgin Islands; except that the benefits afforded by section 4(b) of the Act relating to hunter education projects are limited to the 50 States.

[47 FR 22539, May 25, 1982, as amended at 50 FR 21448, May 24, 1985]

§ 80.3 Assent legislation.

A State may participate in the benefits of the Act(s) only after it has passed legislation which assents to the provisions of the Acts and has passed laws for the conservation of fish and wildlife including a prohibition against the diversion of license fees paid by hunters and sport fishermen to purposes other than administration of the fish and wildlife agency. Subsequent legislation which amends these state laws shall be subject to review by the Secretary. If the legislation is found contrary to the assent provisions, the State shall become ineligible.

§ 80.4 Diversion of license fees.

Revenues from license fees paid by hunters and fishermen shall not be diverted to purposes other than administration of the State fish and wildlife agency.

(a) Revenues from license fees paid by hunters and fishermen are any revenues the State receives from the sale of licenses issued by the State conveying

to a person the privilege to pursue or take wildlife or fish. For the purpose of this rule, revenue with respect to license sales by vendors, is considered to be the net income to the State after deducting reasonable vendor fees or similar amounts retained by sales agents. License revenues include income from:

(1) General or special licenses, permits, stamps, tags, access and recreation fees or other charges imposed by the State to hunt or fish for sport or recreation.

(2) Sale, lease, rental, or other granting of rights of real or personal property acquired or produced with license revenues. Real property includes, but is not limited to, lands, building, minerals, energy resources, timber, grazing, and animal products. Personal property includes, but is not limited to, equipment, vehicles, machine, tools, and annual crops.

(3) Interest, dividends, or other income earned on license revenues.

(4) Federal Aid project reimbursements to the States to the extent that license revenues originally funded the project for which the reimbursement is being made.

(b) For purposes of this rule, administration of the State fish and wildlife agency include only those functions required to manage the fish and wildlife-oriented resources of the State for which the agency has authority under State law.

(c) A diversion of license fee revenues occurs when any portion of license revenues is used for any purpose other than the administration of the State fish and wildlife agency.

(d) If a diversion of license revenues occurs, the State becomes ineligible to participate under the pertinent Act from the date the diversion is declared by the Director until:

(1) Adequate legislative prohibitions are in place to prevent diversion of license revenue, and

(2) All license revenues or assets acquired with license revenues are restored, or an amount equal to license revenue diverted or current market value of assets diverted (whichever is greater) is returned and properly available for use for the administration of the State fish and wildlife agency.

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(e) Federal funds obligated for projects approved prior to the date a diversion is declared remain available for expenditure on such projects without regard to the intervening period of the State's ineligibility.

[54 FR 15209, Apr. 17, 1989]

§ 80.5 Eligible undertakings.

The following are eligible for funding under the Acts:

(a) *Federal Aid in Wildlife Restoration Act.* (1) Projects having as their purpose the restoration, conservation, management, and enhancement of wild birds and wild mammals, and the provision for public use of and benefits from these resources.

(2) Projects having as their purpose the education of hunters and archers in the skills, knowledges, and attitudes necessary to be a responsible hunter or archer.

(b) *Federal Aid in Sport Fish Restoration Act.* (1) Projects having as their purpose the restoration, conservation, management, and enhancement of sport fish, and the provision for public use and benefits from these resources. Sport fish are limited to aquatic, gill-breathing, vertebrate animals, bearing paired fins, and having material value for sport or recreation.

(2) Additional funds resulting from expansion of the Sport Fish Restoration Program must be added to existing State fishery program funds available from traditional sources and not as a substitute therefor.

[47 FR 22539, May 25, 1982, as amended at 50 FR 21448, May 24, 1985]

§ 80.6 Prohibited activities.

The following are not eligible for funding under the Acts, except when necessary for the accomplishment of project purposes as approved by the regional director.

(a) Law enforcement activities conducted by the State to enforce the fish and game regulations.

(b) Public relations activities conducted to promote the State fish and wildlife agency.

§ 80.7 Appeals.

Any difference of opinion over the eligibility of proposed activities or dif-

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ferences arising over the conduct of work may be appealed to the Director. Final determination rests with the Secretary.

§ 80.8 Availability of funds.

Funds are available to a State for obligation or expenditure during the fiscal year for which they are apportioned and until the close of the succeeding fiscal year. For the purpose of this section, obligation of apportioned funds occurs when a project agreement is signed by the regional director.

§ 80.9 Notice of desire to participate.

Any State fish and wildlife agency desiring to avail itself of the benefits of the Acts shall notify the Secretary within 60 days after it has received a certificate of apportionment of funds available to the State. Notification to the Secretary may be accomplished by either of the following methods. In either method, the document must be signed by a State official authorized to commit the State to participation under the Act(s).

(a) Submitting to the regional director within the 60-day period a letter stating the desire of the State to participate in the Act(s); or,

(b) Having an approved Application for Federal Assistance which contains plans for the use of Federal Aid funds during the period of the apportionment.

§ 80.10 Hunting and fishing license certification.

(a) Information concerning the number of persons holding paid licenses to hunt and the number of persons holding paid licenses to fish for sport or recreation in the State in the preceding year shall be furnished upon request of the Director by the fish and wildlife agency of each State on forms furnished by the Fish and Wildlife Service.

(b) This information shall be certified as accurate by the director of the State fish and wildlife agency. When requested by the Director, evidence used in determining accuracy of the certification shall also be furnished.